

TITLE 28. COMMERCIAL INSTRUMENTS AND TRANSACTIONS
SUBTITLE II. OTHER COMMERCIAL TRANSACTIONS
CHAPTER 33. INTEREST AND USURY

D.C. Code § 28-3301 (2003)

§ 28-3301. Rate of interest expressed in contract

(a) Except as otherwise provided in this section, section 28-3308, and chapter 36 of this subtitle, the parties to an instrument in writing for the payment of money at a future time may contract therein for the payment of interest on the principal amount thereof at a rate not exceeding 24% per annum.

(b) It shall be lawful to contract for a rate of interest not exceeding 24% per annum on a loan or financial transaction which is secured by: (1) a first purchase mortgage or first purchase deed of trust on residential real property; (2) a first purchase security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization; or (3) the assignment by way of a first security of the borrower's interest in the proprietary lease or first right of tenancy in property covered by such organization. The first sentence of this subsection shall apply only to a loan or financial transaction which is both contracted for and consummated after the effective date of the Interest Rate Ceiling Amendment Act of 1983 and for which no written commitment to make the loan or financial transaction at a lower rate of interest was issued by the lender to the borrower prior to the effective date of the Interest Rate Ceiling Amendment Act of 1983.

(c) It shall be lawful to contract for a rate of interest not exceeding 24% per annum on a loan or financial transaction which is secured directly or indirectly by: (1) a mortgage or deed of trust, other than a first purchase mortgage or first purchase deed of trust, on residential real property; (2) a security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization; or (3) the assignment by way of a security, other than a first security interest, of the borrower's interest in the proprietary lease or first right of tenancy in property covered by such organization. The first sentence of this subsection shall apply only to a loan or financial transaction which is both contracted for and consummated after the effective date of the Interest Rate Ceiling Amendment Act of 1983 and for which no written commitment to make the loan or financial transaction at a lower rate of interest was issued by the lender to the borrower prior to the effective date of the Interest Rate Ceiling Amendment Act of 1983.

(d) Notwithstanding any other provision of this chapter:

(1) any loan, except a loan which is secured directly or indirectly by a mortgage or deed of trust on residential real property, or by a security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization, or by the assignment by the way of a security of the borrower's interest in the proprietary lease or right of tenancy in property covered by a cooperative housing organization and the residential real property or cooperative is the place of residence of the borrower, where the borrower receives the use of an amount in excess of \$ 1,000 shall not be subject to the provisions of this chapter and it shall be lawful to contract for, or receive, any rate of interest thereon if any of the following conditions are satisfied:

(A) the borrower is a not for profit corporation, whether organized under the laws of the United States, the District of Columbia, or any other jurisdiction; or

(B) the borrower is an individual, group of individuals, corporation, unincorporated association, partnership, or other entity, and the loan is made for the purpose of acquiring or carrying on a business, professional, or commercial activity; or

(C) the borrower is an individual, a group of individuals, corporation, unincorporated association, partnership, or any other entity, and the loan is made for the purpose of acquiring any real or personal property as an investment or for carrying on an investment activity; or

(D) the borrower is a religious society, as referred to in sections 29-901 through 29-916, and the loan is made for the purpose of acquiring or making an improvement on any real or personal property for purposes other than commercial or investment activities.

(2) any loan where the borrower receives the use of an amount in excess of \$ 1,000 which is secured directly or indirectly by a mortgage or deed of trust on residential real property, or by a security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization, or by the assignment by the way of a security of the borrower's interest in the proprietary lease or right of tenancy in property covered by a cooperative housing organization and the residential real property or cooperative is the place of residence of the borrower, shall only be subject to the provisions of D.C. Code, sections 28-3301(f), 28-3310, 28-3311, 28-3312, 28-3313, and 28-3314, and it shall be lawful to contract for any rate of interest thereon if any of the conditions set forth in D.C. Code, section 28-3301(d)(1)(A), (B), (C), or (D) are satisfied.

(3) a lender shall not require a borrower to make any sworn statement or characterization that the loan meets the requirements of subsections(d)(1)(A), (B), (C), or (D) of this section if such statement or characterization is not true. Nothing contained in this subsection shall be construed to limit a lender's right to request information from the borrower which enables a lender to make a determination that the loan meets the requirements of subsections (d)(1)(A), (B), (C), or (D).

(e) (1) "Point" means a fee, premium, bonus, loan origination fee, service charge, or any other charge equal to 1% or less of the principal amount of a loan which is charged by the lender at or before the time the loan is made as additional compensation for the loan. The term "point" shall not include any increase in the purchase price of the residential real property or the first purchase security interest in stock, or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization, or the borrower's interest in a proprietary lease or first right of tenancy in the property covered by such organization which is charged by the seller (i) to recover the cost of compensation to a lender for agreeing to make a loan to the borrower which results in a reduction in the effective rate of interest charged to the borrower or (ii) in the case of a first purchase mortgage or first purchase deed of trust, to recover the cost to the seller of his agreement to reduce the effective rate of interest on the first purchase mortgage or first purchase deed of trust or (iii) any monies deposited by a borrower in a savings account to be applied to subsidize scheduled periodic payments on the loan or financial transaction.

(2) A lender may not charge a borrower more than 1 point unless the borrower agrees to pay additional points to a lender for the sole purpose of qualifying for and obtaining a loan or financial transaction at a lower rate of interest than would otherwise have been offered. The first sentence of this paragraph shall not apply to any loan or financial transaction which is described in subsection (d) or to any loan which is described in section 501(a)(1) of the Depository Institutions Deregulation and Monetary Control Act of 1980, approved March 31, 1980 (96 Stat. 161; 12 U.S.C.S. § 1735f-7, note).

(f) A loan or financial transaction which is secured by a mortgage or deed of trust on residential real property, or a security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization, or the assignment by the way of security of the borrower's interest in the proprietary lease or right of tenancy in property covered by such organization shall meet all of the following requirements:

(1) the loan or financial transaction may be prepaid by the borrower at no penalty at any time following the expiration of 3 years from the execution of the loan or financial transaction. Within 3 years from the execution of the loan or financial transaction, no prepayment charge or penalty shall be contracted for or received which exceeds an amount equal to 2 months advance interest on the aggregate amount of all prepayments in excess of 1/3 of the amount of the original loan or financial transaction made in any 12 month period.

(2) any borrower who, on the date of execution of the loan or financial transaction, has made a downpayment equaling 20% or more of the total purchase price of the property or who has an equity interest in the property equal to or greater than 20% of the fair market value of the property shall not be required by the term of the loan to make advance payments of the real estate taxes or casualty insurance premiums to enable the lender to have funds on hand for disbursement for payment of such taxes or insurance premiums and such borrower shall be furnished with a separate statement, in writing, which clearly and conspicuously sets forth his right to pay such taxes and insurance premiums

directly. Nothing contained in this paragraph shall be construed to prohibit the lender from obtaining, during any period during which the loan is in default and in consideration for the lender not exercising some or all of the remedies to which it is entitled, a written agreement from the borrower to make such advance payments to enable the lender to have funds on hand for disbursement for payment of such taxes or insurance premiums.

(3) prior to the execution of the loan or financial transaction, the lender shall furnish the borrower a separate statement, in writing, which complies with the disclosure provisions of the Truth-In-Lending Act, as heretofore and hereafter amended, effective May 29, 1968 (82 Stat. 146; 15 U.S.C.S. § 1601 et seq.), and the regulations and interpretations thereunder and, where applicable, a separate statement, in writing, which complies with the disclosure provisions of the Alternative Mortgage Transaction Parity Act of 1982, approved October 15, 1982 (96 Stat. 1545; 12 U.S.C.S. § 3801 et seq.), and the regulations and interpretations thereunder.

(g) The provisions of this chapter shall not apply to any international banking facility time deposit or international banking facility loan, but shall be governed solely by regulations promulgated by the Board of Governors of the Federal Reserve System. For purposes of this subsection the terms "international banking facility time deposit" and "international banking facility loan" shall have the same meaning as defined in part 204.8(a)(2) and (3), respectively, of Federal Reserve System Regulation D (12 CFR 204.8(a)(2) and (3)) (1983).

D.C. Code § 28-3302 (2003)

§ 28-3302. Rate of interest not expressed and on judgments

(a) The rate of interest in the District upon the loan or forbearance of money, goods, or things in action in the absence of expressed contract, is 6% per annum.

(b) Interest, when authorized by law, on judgments or decrees against the District of Columbia, or its officers, or its employees acting within the scope of their employment, is at the rate of not exceeding 4% per annum.

(c) The rate of interest on judgments and decrees, where the judgment or decree is not against the District of Columbia, or its officers, or its employees acting within the scope of their employment or where the rate of interest is not fixed by contract, shall be 70% of the rate of interest set by the Secretary of the Treasury pursuant to section 6621 of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2744; 26 U.S.C.S. § 6621), for underpayments of tax to the Internal Revenue Service, rounded to the nearest full percent, or if exactly 1/2 of 1%, increased to the next highest full percent; provided, that a court of competent jurisdiction may lower the rate of interest under this subsection for good cause shown or upon a showing that the judgment debtor in good faith is unable to pay the judgment. In the case of the judgments entered prior to the effective date of the Consumer Credit Interest Rate Amendment Act of 1981, that are not satisfied until after the effective date of the Consumer Credit Interest Rate Amendment Act of 1981, the rate of interest thereon shall be the rate of interest prescribed in this subsection from the effective date of the Consumer Credit Interest Rate Amendment Act of 1981, until the date of satisfaction.

D.C. Code § 28-3303 (2003)

§ 28-3303. Usury defined

If a person or corporation contracts in the District,

(1) verbally, to pay a greater rate of interest than 6% per annum, or

(2) in writing, to pay a greater rate than is permitted under section 28-3301, 28-3308, under Chapter 36 of this subtitle, or under § 26-301 et seq., the creditor shall forfeit the whole of the interest so contracted to be received.

This section does not affect sections 26-901 to 26-912.

D.C. Code § 28-3304 (2003)

§ 28-3304. Action to recover usury paid

If a person or corporation in the District directly or indirectly takes or receives a greater amount of interest than is declared by this chapter to be lawful, whether in advance or not, the person or corporation paying the same may within one year after the date of payment sue for and recover the amount of the unlawful interest so paid.

D.C. Code § 28-3305 (2003)

§ 28-3305. Unlawful interest credited on principal debt

In an action upon a contract for the payment of money with interest at a rate forbidden by law, any payment of interest that may have been made on account of the contract is deemed to be payment made on account of the principal debt; and judgment shall be rendered for no more than the balance found due after deducting and properly crediting the interest so paid. A bona fide indorsee of negotiable paper purchased before due is not affected by any usury exacted by a former holder of the paper unless he had notice of the usury before his purchase.

D.C. Code § 28-3306 (2003)

§ 28-3306. Parties compelled to testify

When in an action to recover a debt the defendant claims that payment of unlawful interest on the debt has been made to the plaintiff or those under whom he claims, which the defendant is entitled to have credited on the principal of the debt, the plaintiff or the party who received the unlawful interest may be examined as a witness to prove the payment, and may not be excused from testifying in relation thereto. A creditor who is made defendant in a proceeding for discovery as to payments of unlawful interest made to him may not be excused from answering.

D.C. Code § 28-3307 (2003)

§ 28-3307. Council of the District of Columbia authorized to exempt certain mortgages and loans

The Council of the District of Columbia is authorized from time to time to provide by regulation for the exemption from the provisions of this chapter of any mortgage or loan insured or guaranteed under the National Housing Act or Chapter 37 of Title 38, United States Code, the interest rate of which is subject to regulation by an officer or agency of the Federal Government. The Council is further authorized to amend or repeal any such regulation at any time, but no such amendment or repeal shall affect any such loan or mortgage lawfully made or committed to be made while such exemption is in effect.

D.C. Code § 28-3308 (2003)

§ 28-3308. Finance charge on direct installment loans

(a) On a loan (other than a loan directly secured on real estate or a direct motor vehicle installment loan covered by Chapter 36 of this subtitle) to be repaid in equal or substantially equal monthly or other periodic installments, including

a loan obtained by using a check, credit card, or other device to access a line of credit, any federally insured bank or savings and loan association doing business in the District of Columbia may contract for and receive interest at the rate permitted under this chapter or, in lieu of such interest, a finance charge, which if expressed as an annual percentage rate, does not exceed a rate of 24% per annum on the unpaid balances of the principal. This section does not limit or restrict the manner of contracting for the finance charge, whether by way of discount, add-on, or simple interest, so long as the annual percentage rate of the finance charge does not exceed that permitted by this section.

(b) If such installment loan is precomputed,

(1) the finance charge may be calculated on the assumption that all scheduled payments will be made when due, and

(2) except as provided in subsection (c), upon prepayment in full of the unpaid balance of a precomputed direct installment loan, refinancing, or consolidation, an amount not less than the unearned portion of the finance charge calculated according to this section shall be rebated to the debtor. If the rebate otherwise required is less than \$ 1, no rebate need be made.

(c) Upon prepayment in full of such direct installment loan other than a refinancing or consolidation, whether or not precomputed, the lender may collect or retain a minimum charge within the limits stated in this section if the finance charge earned at the time of prepayment is less than any minimum charge contracted for. The minimum charge may not exceed the smaller of the following: (1) the amount of the finance charge contracted for, or (2) \$ 5 in a transaction which had a principal of \$ 75 or less, or \$ 7.50 in a transaction which had a principal of more than \$ 75.

(d) The unearned portion of the finance charge is a fraction of the finance charge of which the numerator is the sum of the periodic balances scheduled to follow the computational period in which the prepayment occurs, and the denominator is the sum of all periodic balances under either the related loan agreement or, if the balance owing resulted from a refinancing or a consolidation, under the related refinancing agreement or consolidation agreement.

(e) As used in this section, "finance charge", and "annual percentage rate" shall have the respective meanings under the provisions of the Truth-in-Lending Act (82 Stat. 146 et seq.; 15 U.S.C.S. § 1601 et seq.) and the regulations and interpretations thereunder; and "federally insured bank or savings and loan association" means an insured bank as defined in section 3 of the Federal Deposit Insurance Act or an "insured institution" as defined in section 401 of the National Housing Act.

D.C. Code § 28-3309 (2003)

§ 28-3309. Council of the District of Columbia authorized to exempt certain loans, and to change rates of interest

The Council of the District of Columbia is authorized from time to time to provide by regulation for (1) the exemption from the provisions of this chapter of any loan or financial transaction, and (2) the change of any interest rate specified in this chapter. The Council is further authorized to amend or repeal any such regulation at any time, but no such amendment or repeal relating to any exemption made under authority of this section shall affect any such loan or financial transaction lawfully made or entered into while such exemption is in effect.

D.C. Code § 28-3310 (2003)

§ 28-3310. Consumer protections

(a) (1) A lender who receives scheduled periodic payments on more than 5 loans or financial transactions in a calendar year shall furnish to the borrower, upon request, but not more than 2 times a year, a statement, in writing stating the amount of:

(A) payments credited to reducing the principal;

(B) payments credited to interest;

(C) the remaining unpaid principal balance;

(2) A lender who receives scheduled periodic payments on more than 5 loans or financial transactions in a calendar year shall furnish to the borrower, at least 6 months and not more than 12 months prior to maturity of the loan or financial transaction, or, if the loan or financial transaction is for a period of less than 1 year, halfway through the loan period, a statement, in writing, stating the following:

(A) in the case of a loan or financial transaction which contains a schedule of payments under which each payment is not equal to, or substantially equal to, the other payments or if the intervals between payments are not substantially equal, the date or event upon which maturity occurs, and the projected principal loan balance that will be due at maturity of the loan or financial transaction; and

(B) in the case of a loan or financial transaction where the interest rate is not fixed for the term of the loan, the projected principal loan balance that will be due at maturity, assuming no change in the interest rate, and the conditions under which the interest rate may change and what limits or restrictions, if any, apply to changes in the interest rate.

(b) No delinquent or late charge shall be contracted for or received which does not meet all of the following requirements:

(1) the delinquency shall have continued for at least 10 calendar days;

(2) a delinquent or late charge shall not have already been charged for the same delinquent or late periodic installment; and

(3) the delinquent or late charge shall not exceed 5% of the total amount of the delinquent or late periodic installment of principal and interest.

D.C. Code § 28-3311 (2003)

§ 28-3311. Definition of interest

(a) For the purposes of this chapter, the word "interest" means any compensation directly or indirectly imposed by a lender for the extension of credit for the use or forbearance of money, including any loan fee, origination fee, service and carrying charge, investigator's fee, and any amount payable as a discount under section 28-3301(e)(1), or point, or otherwise payable for services. The following charges shall not be considered interest:

(1) fees and charges collected at the direction of and actually paid to a government or governmental agency;

(2) a service charge for investigation and continued servicing of collateral for a commercial loan secured by inventory or accounts receivable and any compensating balance accounts required by a lender for a commercial loan;

(3) reasonable charges by the lender's attorney or other agent for service rendered in connection with collateral appraisals and the preparation, closing, or disbursement of the loan, but only if the charges are an actual expense of the lender;

(4) premiums for credit life, accident, health, or loss-of-income insurance, but only if the insurance coverage is in fact not required by the lender and this fact is clearly and conspicuously disclosed; that the borrower signs or initials an affirmative written request for the insurance after receiving the disclosures specified in this paragraph; and that the terms of and premiums for the insurance coverage are disclosed;

(5) premiums for insurance against loss of or damage to the property, or against liability arising out of the ownership or use of the property, but only if the lender does not in fact require that the insurance be purchased through a particular broker, agent or insurance company; that the insurance coverage may be obtained from a broker, agent or insurance company of borrower's choice, subject to approval by the lender, and this fact is clearly and conspicuously disclosed; and that if the insurance coverage is obtained from or through the lender, the term of and premiums for the insurance coverage are clearly and conspicuously disclosed;

(6) a service charge made by a broker or dealer dealing in investment securities if money is advanced on the security of pledged investment securities and if services are rendered in the collection, crediting, and disbursement of income on the investment securities and in the furnishing of income tax and other information in connection with that income;

(7) reasonable charges for investigation and reporting in regard to the credit rating or credit history of the borrower, but only if such charges are an actual expense of the lender; and

(8) advance payments of real estate taxes or casualty insurance premiums made in accordance with section 28-3301(f)(2).

(b) The rate of interest on any loan or financial transaction shall be calculated in compliance with the provisions of the Truth-in-Lending Act, as heretofore and hereafter amended, effective May 29, 1968 (82 Stat. 146; 15 U.S.C.S. 1601 et seq.), and the regulations and interpretations thereunder.

D.C. Code § 28-3312 (2003)

§ 28-3312. Unlawful practices

It shall be a violation of this chapter for any lender to:

- (1) misrepresent as to a material fact;
- (2) fail to state a material fact;
- (3) disparage the services or business of another by false or misleading representations of material facts;
- (4) advertise or offer services without the intent to provide them or without the intent to provide them as advertised or offered;
- (5) include in the loan or financial transaction agreement an acceleration clause under which any part or all of the unpaid balance of the loan or financial transaction not yet matured may be declared due and payable for any reason other than due to default by the borrower in the payment or in accordance with another term of the agreement; or
- (6) include in the loan or financial transaction agreement any provision by which the borrower waives any right accruing to him under the provisions of this chapter.

D.C. Code § 28-3313 (2003)

§ 28-3313. Penalties

Any lender who wilfully violates any provision of this chapter shall, upon conviction thereof, be fined not more than \$ 1,000 or imprisoned for not more than 1 year, or both.

D.C. Code § 28-3314 (2003)

§ 28-3314. Right of action

Any borrower who suffers a violation of any provision of this chapter by any lender may bring an action in the Superior Court of the District of Columbia to recover, or obtain, or enforce any of the following:

- (1) reasonable attorney's fees;

- (2) actual and punitive damages; or
- (3) any other relief which the court deems proper.